



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Am

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,616	06/30/2003	Ling Chen	42P16534	1415

8791 7590 06/16/2005

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER

NGUYEN, TANH Q

ART UNIT PAPER NUMBER

2182

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,616

Applicant(s)

CHEN, LING

Examiner

Tanh Q. Nguyen

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-9,13,14 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 3-5,10-12,15-17 and 21-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 6-12, 19-23 are objected to because of the following informalities:

“audio input module” in line 5 of claim 6 should be replaced with “audio data module” to provide proper antecedent basis with “audio data module” in line 3, and to be consistent with the terminology used in claims 9-10;

“audio input module” in line 5 of claim 19 should be replaced with “audio data module” to provide proper antecedent basis with “audio data module” in line 3, and to be consistent with the terminology used in claims 20-21.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2; 6-9; 13-14 are rejected under 35 U.S.C. 102(e) as being anticipated by **Parry et al. (USP 6,463,486)**.

4. As per claims 1-2, 13-14, **Parry** teaches a method and corresponding article

comprising a storage medium that includes instructions to manage a buffer, comprising:

storing audio information in a circular buffer [124, FIGs. 6, 7; col. 7, lines 30-32; col. 7, lines 19-21];

scheduling access to said audio information by a plurality of components [126, FIGs. 6, 7; col. 8, lines 22-24]; and

accessing said stored audio information by said components in accordance with said schedule [col. 7, lines 32-35],

wherein said storing comprises receiving audio information [col. 7, lines 30-32], identifying a buffer location to store said audio information [col. 8, lines 35-41; col. 11, lines 14-16], and storing said audio information in said buffer location [col. 11, lines 14-16].

5. As per claims 6-9, Parry teaches an apparatus [FIG. 6] to perform media processing, comprising:

a circular buffer [124, FIGs. 6, 7];

an audio data module [122, FIGs. 6, 7; col. 7, lines 19-21] connected to said circular buffer;

a plurality of components [126, FIGs. 6, 7; 130, FIG. 6; col. 4, lines 55-57] connected to said circular buffer; and

a scheduling module [200, FIG. 7] connected to said audio data module and said components.

Parry further teaches the plurality of components comprising at least a voice encoder [118, FIG. 5] and a preprocessing module [130, FIG. 6; col. 7, lines 22-25];

the plurality of components comprising at least a data modem [col. 4, lines 55-57 and a voice decoder [120, FIGs. 5, 6];

the audio data module storing audio information in the circular buffer [col. 7, lines 30-32] by receiving audio information [col. 7, lines 30-32], identifying a buffer location to store the audio information [col. 8, lines 35-41; col. 11, lines 14-16], and storing said audio information in said buffer location [col. 11, lines 14-16].

6. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by **Yousseff (USP 6,400,709)**.

Yousseff teaches a system [FIG. 1] to process audio information, comprising a media gateway [101, 102, FIG. 1] - hence an inherent media gateway controller, and a media processing device [FIG. 2] connected to said media gateway - hence the media processing device inherently connected to said media gateway controller.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Parry et al.**.

9. As per claim 18, Parry teaches a system to process audio information [col. 1, lines 30-33], comprising a media processing device [FIG. 6] for streaming media information over the Internet [col. 1, lines 30-33].

Perry therefore discloses the invention except for the system comprising a media gateway and a media gateway controller, and except for the media gateway and the media gateway controller being connected to the media processing device.

Since Parry teaches the media processing device streaming media information over the Internet, and since it was known in the art at the time the invention was made for a media gateway to stream media between a local network and the Internet, it would have been obvious to one of ordinary skill in the art at the time the invention was made to connect a media gateway and a corresponding media gateway controller to the media processing device in order to stream data between a local network and the Internet.

10. As per claims 19-20, Parry further teaches the media processing device comprising:

a circular buffer [124, FIGs. 6, 7];

an audio data module [122, FIGs. 6, 7; col. 7, lines 19-21] connected to said circular buffer;

a plurality of components [126, FIGs. 6, 7; 130, FIG. 6; col. 4, lines 55-57] connected to said circular buffer; and

a scheduling module [200, FIG. 7] connected to said audio data module and said components,

wherein the audio data module stores audio information in the circular buffer [col. 7, lines 30-32] by receiving audio information [col. 7, lines 30-32], identifying a buffer location to store the audio information [col. 8, lines 35-41; col. 11, lines 14-16], and storing said audio information in said buffer location [col. 11, lines 14-16].

Double Patenting

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

12. Claim 18 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of copending Application No. 10/459,309. Although the conflicting claims are not identical, they are not patentably distinct from each other because

claim 8 of the copending application claims a system comprising a media gateway (gateway to receive audio information) - hence an inherent media gateway controller, and a media processing device (a tone clamping module) connected to the

media gateway - hence the media processing device being connected to the inherent gateway controller.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Allowable Subject Matter

13. Claims 3-5, 10-12, 15-17, 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh Quang Nguyen whose telephone number is (571) 272-4154 and whose e-mail address is tanh.nguyen36@uspto.gov. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin, can be reached on (571) 272-2100. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for After Final, Official, and Customer Services, or (571) 273-4154 for Draft to the Examiner (please label "PROPOSED" or "DRAFT").

Effective May 1, 2003 are new mailing address is:

Mail Stop _____

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Effective December 1, 2003, hand-carried patent application related incoming correspondences will be to a centralized location.

U.S. Patent and Trademark Office

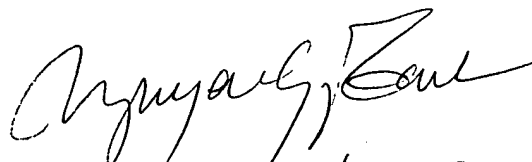
2011 South Clark Place

Customer Window

Crystal Plaza Two, Lobby, Room 1B03

Arlington, VA 22202

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.


06/11/2005